

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**ANDRE JONES,
Plaintiff,**

v.

Case No. 08-C-1126

**UNITED PARCEL SERVICE, et al.,
Defendants.**

DECISION AND ORDER

Pro se plaintiff Andre Jones brought this action against his employer defendant United Parcel Service (“UPS”) and three UPS managers alleging racial discrimination. On December 4, 2009, defendants moved for summary judgment. Instead of responding, plaintiff requested additional time to conduct discovery. He filed this request three months after discovery had closed and after failing to conduct any discovery. I denied plaintiff’s request and directed him to respond to defendants’ motion by February 11, 2010. I warned him that failure to respond could result in dismissal of the case for failure to prosecute. To date, plaintiff has not responded. Consequently, this action is dismissed with prejudice for lack of prosecution pursuant to Civil Local Rule 41(c) (E.D. Wis.) and Federal Rule of Civil Procedure 41(b).

Alternatively, I will grant defendants’ motion for summary judgment on the merits. Because plaintiff did not respond to defendants’ proposed facts, I take such facts as the facts of the case. Civil L.R. 56(b)(4) (E.D. Wis.); see also Waldridge v. Am. Hoechst Corp., 24 F.3d 918, 922 (7th Cir. 1994). Managers and supervisors in their individual capacities are not “employers” under Title VII, and thus the individual defendants are not personally

liable. Geier v. Medtronic, Inc., 99 F.3d 238, 244 (7th Cir. 1996). As to plaintiff's claim against UPS, no reasonable juror could return a verdict in plaintiff's favor. Plaintiff presents no evidence that UPS did not assign him light duty when it should have because of his race. Nothing in the record suggests that UPS's explanation for its action was a pretext for racial discrimination.

IT IS THEREFORE ORDERED that this case is **DISMISSED WITH PREJUDICE** for failure to prosecute.

ALTERNATIVELY, IT IS ORDERED that defendant's motion for summary judgment is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 24 day of June, 2010.

/s _____
LYNN ADELMAN
District Judge